RECORD AND BRIEFS

FILED
SEP - 8 2017

Nos. 16-1436 and 16-1540

IN THE

Supreme Court of the United States

DONALD J. TRUMP, President of the United States, ET AL., *Petitioners,*

v.

INTERNATIONAL REFUGEE ASSISTANCE PROJECT, ET AL., *Respondents.*

DONALD J. TRUMP, President of the United States, ET AL., *Petitioners,*

v.

STATE OF HAWAII, ET AL., *Respondents.*

On Writs of Certiorari to the United States Courts of Appeals for the Fourth and Ninth Circuits

BRIEF OF CHICAGO, LOS ANGELES, NEW YORK, PHILADELPHIA, AND OTHER CITIES AND COUNTIES, JOINED BY THE U.S. CONFERENCE OF MAYORS AND NATIONAL LEAGUE OF CITIES AS *AMICI CURIAE* SUPPORTING RESPONDENTS

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QUESTION PRESENTED

Whether the Executive Order violates the Establishment Clause.

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BRIEF OF CHICAGO, LOS ANGELES, NEW YORK, PHILADELPHIA, AND OTHER CITIES AND COUNTIES, JOINED BY THE U.S. CONFERENCE OF MAYORS AND NATIONAL LEAGUE OF CITIES AS *AMICI CURIAE* SUPPORTING RESPONDENTS

STATEMENT OF INTEREST OF *AMICI CURIAE*

Amici include some of the largest cities and counties in the United States.[1] The U.S. Conference

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[1] Pursuant to Supreme Court Rule 37.6, amici state that no counsel for any party authored this brief, in whole or in part, and no person other than *amici* contributed monetarily to its preparation or submission. Petitioners have provided a blanket letter of consent, and respondents have consented to the filing of this brief.

of Mayors (USCM), founded in 1932, is the official nonpartisan organization of all United States cities with a population of more than 30,000 people, which includes over 1,400 cities at present. Each city is represented in USCM by its chief elected official, the mayor. The National League of Cities (NLC), founded in 1924, is dedicated to helping city leaders build better communities. NLC is a resource and advocate for 19,000 cities, towns, and villages, representing more than 218 million Americans. *Amici* are categorically opposed to Executive Order 13780, entitled "Protecting the Nation from Foreign Terrorist Entry into the United States" ("the Executive Order"), which discriminates invidiously on the basis of religion and national origin and will significantly undermine the safety, economic well-being, and social cohesion in our communities and across the United States.

Our cities are heavily dependent on the contributions of immigrants.[2] Of the 16.6 million residents of Chicago, Los Angeles, New York City, and Philadelphia, more than five million are immigrants, who hail from 150 countries.[3] These cities account for almost one-fifth of the Nation's

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[2] *Immigrants & Competitive Cities*, Americas Society/Council of the Americas, http://www.as-coa.org/sites/default/files/ ImmigrantsandCompetitiveCities.pdf.

[3] Support for the data cited is in the appendix to this brief.

gross domestic product.[4] As of 2015, approximately 213,100 residents in the Chicago, Los Angeles, and New York City metropolitan areas were born in five of the six countries targeted by the Executive Order.[5]

Chicago, Los Angeles, and New York City are some of their jurisdictions' largest employers, collectively employing approximately 365,000 people. In New York City, 34% of city workers are foreign-born; in Los Angeles, 22% are. Immigrants also make up a substantial portion of our cities' private workforces: 46% of the 4.3 million workers in New York; 26.5% of the 1.27 million workers in Chicago; and approximately 17% of the 640,000 workers in Philadelphia. At least 12,500 private employees work on international visas in Chicago alone, and Chicago is home to more than 100,000 immigrant entrepreneurs. Immigrants are a majority of New York City's business owners; 44% in Los Angeles; 27% in Chicago; and 14% in Philadelphia.

Chicago and Los Angeles welcome and resettle some of the largest numbers of refugees in the United

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[4] Ted Hesson, *Why American Cities Are Fighting to Attract Immigrants*, http://www.theatlantic.com/business/archive/2015/07/us-cities-immigrants-economy/398987/ (NYC, LA, Houston, and Chicago are roughly 1/5 of GDP).

[5] Alan Berube, *These communities have a lot at stake in Trump's executive order on immigration*, http://www.brookings.edu/blog/the-avenue/2017/01/30/these-communities-have-a-lot-at-stake-in-trumps-executive-order-on-immigration.

States. From October 2015 to September 2016, approximately 2,100 refugees were resettled in the Chicago area, including nearly 800 from the targeted countries. 2,800 were resettled in the Los Angeles area, including 1,900 from Iran alone. 682 refugees arrived in Philadelphia, including 176 from the targeted countries. Approximately 1,300 refugees have been resettled in New York City in the past five years.

Chicago, Los Angeles, New York City, and Philadelphia also operate or are served by large international airports. More than 400 international flights, bringing more than 60,000 passengers, arrive daily in Chicago and Los Angeles alone. Tourism in Chicago, Los Angeles, New York City, and Philadelphia generates roughly $70 billion a year in local revenue. In 2016, our cities hosted more than 20 million foreign visitors, who spent an estimated $6.3 billion in Los Angeles County, and $1.88 billion in Chicago, including $1.25 million by tourists from the six targeted countries. As a result of the Executive Order, New York City now predicts a 300,000-person drop in foreign visitors in 2017, which will result in a loss of $600 million in direct spending. Los Angeles stands to lose an estimated $736 million. More generally, "[f]ollowing President Trump's Jan. 27 executive order banning people from seven predominantly Muslim countries from entering the United States, the demand for travel to the United States took a nosedive, according to data from

several travel companies and research firms."[6]

Chicago, Los Angeles, New York City, and Philadelphia together have 162 four-year colleges and universities, with approximately 100,000 international students. Chicago is also home to 44 major hospitals, and Philadelphia is home to 29, which serve thousands of international patients a year. The Middle East region is the top source of patients traveling to the United States for medical care.[7]

Amici are profoundly opposed to the Executive Order, which is as misguided as it is unconstitutional. Our cities serve as gateways for immigrants and refugees starting new lives in America. And when they have come, "[e]verywhere immigrants have enriched and strengthened the fabric of American life."[8] Indeed, perhaps uniquely in the world, the identity of American cities has been forged from the toil of immigrants.

But beyond our ideals, the Executive Order

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[6] Shivani Vora, *After Travel Ban, Interest in Trips to U.S. Declines*, http://www.nytimes.com/2017/02/20/travel/after-travel-ban-declining-interest-trips-to-united-states.html.

[7] Kristen Schorsch, How Trump's T*ravel Ban Could Hit Medical Tourism Hard*, http://www.chicagobusiness.com/article/20170201/news03/170209996/how-trumps-travel-ban-could-hit-medical-tourism-hard.

[8] John F. Kennedy, *A Nation of Immigrants* 3 (Harper rev. ed. 2008).

subverts the very national security purpose it claims to serve. With decades of experience policing neighborhoods that are home to immigrant populations, *amici* are keenly and uniquely aware that frightened or ostracized residents are reluctant to report crimes, against themselves or others, or behavior that should, in the interest of safety and national security, be reported as suspicious. Although this hurts the entire Nation, the effects on *amici* are especially profound. Chicago, Los Angeles, New York City, Philadelphia, and the other *amici*, as financial, political, and cultural hubs in the United States, draw unique attention from individuals looking to cause harm in this country. Additionally, local law enforcement officers play an increasingly important role in detecting and protecting against national security threats. For these and other reasons, cities are a crucial part of the first-line defense against terrorism.[9] To serve the purpose of national security, then, our cities must be able to work in coordination with everyone in our diverse communities Even at the strictly local

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[9] *E.g.*, Mitch Silber and Adam Frey, *Detect, Disrupt, and Detain: Local Law Enforcement's Critical Roles in Combating Homegrown Terrorism and the Evolving Terrorist Threat*, http://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?article=2508&context=ulj; David Thacher, *The Local Role in Homeland Security*, 39 Law & Soc'y Rev. 635 (Sept. 2005), http://deepblue.lib.umich.edu/bitstream/handle/2027.42/73848/j.1540-5893.2005.00236.x.pdf?sequence=1; *DHS Announces Expansion of the Securing the Cities Program*, http://www.dhs.gov/news/2015/09/14/dhs-announces-expansion-securing-cities-program.

level, the safety and security of our residents and visitors depends upon cooperation between the residents and local police. The United States Department of Justice's own Office of Community Oriented Policing Services has emphasized this fact time and again.[10] In short, by targeting immigrants based on religion and national origin, the Executive Order undermines trust between our law enforcement agencies and our immigrant communities, which in turn makes *all* of our residents and visitors, and indeed everyone in the country, less safe.

Overt discrimination presents other dangers. Foreign residents of our cities who feel unwelcome are more likely to cut themselves off from public life and participation in public programs. They may refuse to participate in public health programs such as vaccinations or seek medical care for contagious diseases. They may keep their children out of school to avoid harassment and stay away from mosques because of the fear that they will be unsafe. These effects will not be limited to individuals from the six targeted countries. Thousands of other Muslims in the *amici* cities and counties have reason to worry that the public will embrace the Executive Order's anti-Muslim stance. The Order therefore places millions of people at risk of harm or being driven underground, which makes both those residents and

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[10] *E.g.*, *Community Policing Defined*, Dep't of Justice, Office of Community Oriented Policing Services (rev. 2014), http://ric-zai-inc.com/Publications/cops-p157-pub.pdf.

our cities less safe.

Worse still, the Executive Order's message that citizens of majority-Muslim countries threaten national security conveys that members of those communities, and other immigrant communities, are to be distrusted and feared. Thus, targeting Muslims makes these residents more vulnerable to victimization, and adds to the difficulty local governments face in trying to provide protection. At the extreme, this climate gives rise to hate crimes. The Southern Poverty Law Center reports that in the first 34 days following the 2016 presidential election, there were 1,094 hate crimes and lesser hate incidents; 315 were categorized as anti-immigrant, and 112 as anti-Muslim.[11] In cities across the country, hate crimes have risen dramatically since the 2016 presidential election. New York City reported twice the number of hate crime incidents in the three months after the election compared to the same period a year prior. In Los Angeles, hate crime incidents doubled in the month following the election. And in the first five weeks of 2017, the number of hate crimes recorded in Chicago was more than triple the number for the same period in 2016. Philadelphia received more reports of hate crimes in the first half of 2017 than in all of last year, and, if this trend continues, is on track to see more hate

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[11] *Update: 1,094 Bias-Related Incidents in the Month Following the Election*, http://www.splcenter.org/hatewatch/2016/12/16/update-1094-bias-related-incidents-month-following-election.

crimes in 2017 than in the previous three years combined.

The Executive Order also undermines local laws prohibiting discrimination based on religion and national origin, among other invidious grounds, in all aspects of life – housing, employment, public accommodation, transportation, schooling, government services, and public employment. *E.g.*, Municipal Code of Chicago, Ill. §§ 2-160-010, 5-8-010, 9-115-180, 13-72-040; Los Angeles Charter §§ 104(i), 1024; Los Angeles Admin. Code §§ 4.400, 10.8, 10.13; New York City Charter § 900; N.Y.C. Admin. Code §§ 4-116; 6-108; Philadelphia Code §§ 9-1101, 9-1103, 9-1106, 9-1108. Such laws reflect *amici*'s strong commitment to equal opportunity and equal rights, as well as their belief that diversity enriches us, and diminishes no one. The Executive Order's blatant discrimination turns the clock back on these important civil rights guarantees.

Finally, the Executive Order deprives our communities and our residents of the opportunity to interact with persons from the targeted six countries, including not just people who are barred but others who decide not to travel to the United States, much less to live here. These individuals enrich us with their customs and celebrations, their hard work and perseverance, and their unique skills and training. Our cities would be bereft without them. Foreign residents and students also make an immeasurable contribution to America's ability to participate in the

global economy, among other reasons because fewer than half of Americans have passports.[12] Thus, many Americans become acquainted with other cultures only if visitors and students from foreign countries come here.

The Fourth Circuit properly determined that plaintiffs were likely to succeed at least on their Establishment Clause claim and would suffer irreparable harm if the Executive Order were not enjoined. Further supporting those rulings, the Order, and the anti-immigrant principles behind it, will cause irreparable harm to cities and counties across the United States. It undermines trust and cooperation between local law enforcement and immigrant communities, which is necessary to effectively detect terrorist activity and combat crime. It also harms our businesses, educational institutions, and hospitals; limits our labor pool; decreases our tax revenues; and dampens tourism in our communities. And it tramples our cities' history; offends our values; and undermines our laws, including those prohibiting discrimination on precisely the invidious grounds reflected in the Executive Order. *Amici* file this brief to urge the Court to affirm.

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[12] Sally Hership, *Trump's travel ban worries international students*, http://www.marketplace.org/2017/02/08/world/overseas-students.

SUMMARY OF ARGUMENT

Presidential candidate Donald J. Trump promised that, if elected, he would impose a ban on Muslim immigration. And, in two Executive Orders since being sworn in as president, he has made good on his promise. In describing the first Executive Order, President Trump and his advisors publicly said that it accomplishes exactly what candidate Trump said he would do. Then, after the courts enjoined that Order precisely because of its unlawful purpose, President Trump replaced it with the Order under review in this case, which he described as just a "politically correct" version of his promised Muslim ban, reiterating: "I keep my campaign promises." Like its predecessor, the revised Executive Order is unlawful.

Nearly petitioners' entire argument that the Executive Order does not violate the Establishment Clause hinges on convincing the Court that it should not consider the pre-election statements of intent. That position squarely conflicts with the Court's settled Establishment Clause cases, which look to the very same indicia that would be plain to any "objective observer." *McCreary County v. ACLU of Ky.*, 545 U.S. 844, 881 (2005). Here, moreover, President Trump has never disavowed his statements but has continued to act and speak in the same terms as the primary purpose he has articulated all along. In these circumstances, the attempt to repackage the Muslim ban as a religion-neutral ban should be rejected. Instead, the primary purpose and effect of

the Executive Order is to implement animus toward one religious group.

Indeed, that animus is plain even absent those campaign statements. It is reflected in the Order's provisions, which target Muslim immigrants and refugees who are predominantly Muslim. The Order also refers to "honor killings," a stereotype associated with Muslims that has nothing to do with the Order's stated national security purpose. That stated purpose is a transparent guise, and cannot mask the Order's true purpose – to ban Muslims.

Petitioners' further attempt to put this Executive Order, which operates against nearly two hundred million people, into the range of Executive authority allowed for individual visa waiver decisions should also be rejected. At the outset, there is no facially legitimate and bona fide reason for the blanket exclusion here, and thus no basis for deference. And when the circumstances are examined, petitioners' reliance on what they now say is a neutral basis for the Order should not overcome the palpable illicit animus. Because an objective observer would see a Muslim ban, this Court should likewise see it, and should uphold the injunctions against it.

ARGUMENT

THE EXECUTIVE ORDER VIOLATES THE ESTABLISHMENT CLAUSE.

The Establishment Clause prohibits any "law respecting an establishment of religion." It enshrines, in the first words of the First Amendment, the special protection that the Framers intended for religion to have from governmental compulsion. Those words were "written by the descendants of people who had come to this land precisely so that they could practice their religion freely," and were "designed to safeguard the freedom of conscience and belief that those immigrants had sought." *McCreary County*, 545 U.S. at 881 (O'Connor, J., concurring); see also James Madison, *Memorial and Remonstrance Against Religious Assessments*, reprinted in 8 THE PAPERS OF JAMES MADISON 299 (Robert A. Rutland ed., 1973) ("The Religion . . . of every man must be left to the conviction and conscience of every man; and it is the right of every man to exercise it as these may dictate.").

Consistent with these principles, the "clearest command" of the Establishment Clause is that the government cannot favor or disfavor one religion over another. *Larson v. Valente*, 456 U.S. 228, 244 (1982); accord *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 535-36 (1993) ("In our Establishment Clause cases we have often stated the principle that the First Amendment forbids an official purpose to disapprove of a particular religion . . . ."); *Lynch v. Donnelly*, 465 U.S. 668, 673 (1984)

(Establishment Clause "forbids hostility toward any [religion]"); *Epperson v. Arkansas*, 393 U.S. 97, 106 (1968) ("[T]he State may not adopt programs or practices . . . which aid or oppose any religion. This prohibition is absolute.") (internal citations and quotation omitted).

The Executive Order violates the Establishment Clause by disfavoring Muslims. That the Order does not explicitly reference Islam is beside the point. The Establishment Clause "extends beyond facial discrimination" and "protects against governmental hostility which is masked, as well as overt. The Court must survey meticulously the circumstances of governmental categories to eliminate, as it were, religious gerrymanders." *Lukumi*, 508 U.S. at 534 (citation and quotation omitted). "Official action that targets religious conduct for distinctive treatment cannot be shielded by mere compliance with the requirement of facial neutrality." *Ibid.* For this reason, it is "the duty of the courts" to distinguish a "sincere" secular purpose from one that is a "sham," or that is "secondary" to a "predominately religious" purpose. *McCreary County*, 545 U.S. at 862. Here, although the Executive Order in terms bans immigrants from six countries and all refugees, it is an admitted guise for discrimination against Muslims. The courts of appeals correctly ordered it enjoined.

A. President Trump's Statements Confirm The Executive Order's Religious Purpose.

As a candidate for President of the United States, President Trump promised that he would "preven[t] Muslim immigration" if elected.[13] True to his word, one of his first acts as President was to issue the original version of the Executive Order. Indeed, the day after the original Order was signed, presidential advisor Rudolph Giuliani acknowledged that President Trump had asked him to implement the promised "Muslim ban" legally, which he attempted to accomplish by banning citizens of the identified countries rather than explicitly saying "Muslims." J.A. 60. That is exactly how candidate Trump explained he intended to skirt legal challenges to his ban: by referring to "territories" instead of "Muslims." *Ibid.*

After the Ninth Circuit declined to stay enforcement of the injunction of the first Order, President Trump vowed he would issue a new version, stating: "I keep my campaign promises, and our citizens will be very happy when they see the result." J.A. 494. At a rally hours after the district court in Hawaii enjoined the revised Order, President Trump confirmed that the Executive Orders spring from the same discriminatory well as his campaign promise:

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[13] A portion of President Trump's many statements reflecting animus towards Islam are catalogued at J.A. 179-83.

> This is a watered down version of the first one . . . . And let me tell you something. I think we ought to go back to the first one and go all the way, which is what I wanted to do in the first place.[14]

Two months later, President Trump publicly complained that the Department of Justice "should have stayed with the original Travel Ban, not the watered down, politically correct version."[15]

President Trump has never disavowed any of his anti-Muslim statements but rather has reiterated them at every opportunity.[16] Given these very clear

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[14] Available at http://time.com/4703622/president-trump-speech-transcript-travel-ban-ruling/.

[15] http://twitter.com/realdonaldtrump/status/871675245043888128?lang=en. President Trump's description of the Executive Order as "politically correct" refers to criticisms of his promise to ban Muslims. At the January 14, 2016 Republican Candidates' debate, candidate Trump declined the opportunity to retract his comments about banning Muslims, explaining "Look, we have to stop with political correctness." http://www.presidency.ucsb.edu/ws/index.php?pid=111395.

[16] In some circumstances, it may not be appropriate to consider campaign statements, such as where a candidate promises to do one thing and does something plainly different as an elected official. But here, President Trump and his advisors have confirmed the discriminatory intent of the ban since he took office. Moreover, President Trump's formal statement calling for a ban on Muslim immigration remained on his website for months after he was elected, even after litigants and

and consistent public statements, including those President Trump made after taking the oath of office, there is no need to engage in "psychoanalysis" of the President's "heart of hearts." Pet. Br. 70 (citing *McCreary County*, 545 U.S. at 862). President Trump himself has told us his motivation, and it is to ban Muslims. The Executive Order plainly reflects that purpose.

Petitioners ask the Court not merely to discount the wealth of evidence of religious animus, but to pretend that none of it exists.[17] But it is very real for the Muslim communities that the President has disparaged and for those who seek to do them harm. Official pronouncements from the President that Muslims are dangerous have real-world effects on the perceived and actual safety of *amici*'s residents, and indeed the entire country. These consequences do not go away with palliative words in a brief.

Beyond that, petitioners misplace reliance on the Court's parenthetical comment in *Republican Party of*

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courts pointed to its continued presence as evidence of the President's intention. J.A. 179-80. Under these circumstances, "[j]ust as the world is not made brand new every morning," *McCreary County*, 545 U.S. at 866, intent is not made brand new simply by taking the oath of office.

[17] It bears noting in connection with this argument that petitioners also forward a boundless interpretation of 8 U.S.C. § 1182(f), Pet. Br. 39-43, and insist that judicial review of the President's actions is impermissible, *id.* at 24-25. The combined effect would leave intentional discrimination by the President completely unchecked.

Minnesota v. White, 536 U.S. 765 (2002), that "campaign promises are – by long democratic tradition – the least binding form of human commitment," *id.* at 780, to argue the campaign promises should be disregarded. At the outset, our point is not that President Trump's campaign promises are binding, and we are, of course, not trying to enforce them. Our point is that they are indicative of his intent. Moreover, petitioners acknowledge only part of what the Court said in that case. Petitioners omit to mention the Court's recognition that candidates may be reluctant to break their campaign promises: "A candidate who says 'if elected I will vote to uphold the legislature's power to prohibit same-sex marriages' will positively be breaking his word if he does not do so." *Ibid.* In any event, the post-inauguration evidence of religious animus is enough to invalidate the Executive Order, and, even as to pre-election statements, we do not ask the Court to read the President's mind or decide whether a promise was meant to be followed. The President himself has laid his intent bare for all to see, and has pointed to the Executive Order as evidence of his ability to deliver what he promised.

B. The Executive Order's Text and Operation Confirm Its Discriminatory Intent.

The Executive Order is also discriminatory towards Islam in its text and its operation. The Order refers to "so-called 'honor killings'" by foreign nationals. J.A. 1437 (§ 11(e)). As the Fourth Circuit observed, "EO-2 seeks information on honor

killings – a stereotype affiliated with Muslims – even though honor killings have no connection whatsoever to the stated purpose of the Order." J.A. 224. The Order's reference to a practice associated with one religion is not neutral toward religion. See *Lukumi*, 508 U.S. at 533 ("A law lacks facial neutrality if it refers to a religious practice without a secular meaning discernible from the language or context.").

The Executive Order's operation likewise targets Muslims. There are Christian-majority countries (such as Venezuela and the Philippines) that satisfy the professed criteria in Section 1(d) of the Order. J.A. 310. Yet the Order does not restrict immigrants from those countries, but only immigrants from six Muslim super-majority countries. J.A. 173. Indeed, given current global conditions of civil war, ethnic conflict, drought, famine, and – yes – radical Islamic elements, most refugees worldwide come from predominately Muslim countries.[18] As the Hawaii district court noted, J.A. 1161, most of the 38,901 Muslim refugees admitted to the United States in fiscal year 2016 came from these six targeted countries.[19] The operation of the Order confirms its religious purpose, by targeting only Muslim countries

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[18] *Figures at a Glance*, UNHCR (available at http://www.unhcr.org/en-us/figures-at-a-glance.html).

[19] Phillip Connor, *U.S. admits record number of Muslim refugees in 2016*, Pew Research Center (Oct. 5, 2016) (available at http://www.pewresearch.org/fact-tank/2016/10/05/u-s-admits-record-number-of-muslim-refugees-in-2016).

in Section 2 and suspending the refugee program in Section 6.

To be sure, the Executive Order's use of national origin as a proxy for religious discrimination would also bar the few non-Muslims from the targeted countries as well as refugees of other faiths. That merely makes its religious gerrymander imprecise and inefficient; it does not make it constitutional. Overwhelmingly, the operation of the Executive Order is to exclude Muslims from entering the United States, precisely as President Trump has long promised. Collateral damage to non-Muslims is not evidence of a secular purpose.

Petitioners argue that the President's statements should be ignored and the Court's analysis confined to the "text" and "operation" of the Order. Pet. Br. 70-72. This Court's Establishment Clause cases do not support those blinders. To the contrary, the Court has consistently held that "our analysis does not end with the text." *Board of Educ. of Kiryas Joel Vill. Sch. Dist. v. Grumet,* 512 U.S. 687, 699 (1994); see also *Lukumi*, 508 U.S. at 534 ("We reject the contention advanced by the city . . . that our inquiry must end with the text of the laws at issue."). Instead, in determining whether the challenged government action has a predominately religious or secular purpose, the courts "not only can, but must" examine "the circumstances surrounding [the] enactment," *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 315 (2000), to ascertain whether, in the eyes of an "objective observer," a religious objective "emerges from readily discoverable fact[s]," *McCreary*

County, 545 U.S. at 862. As the Court explained in *McCreary County*, it is "the duty of the courts" to distinguish a "sincere" secular purpose from one that is a "sham," or that is "secondary" to a "predominately religious" purpose. *Id.* at 864. Here the sham purpose could not be more transparent: the Executive Order, by President Trump's own prior and concurrent admissions, was designed to target Muslims.

In any event, petitioners' contention that the Order is "religion-neutral," Pet. Br. 71, fails on its own terms, as we explain. A religion-neutral measure does not single out a practice associated with one religion. Nor does it target only Muslim majority countries, or suspend a refugee program that predominately benefits Muslims.

C. The Executive Order's Professed National Security Rationale Cannot Mask Its Discriminatory Purpose.

The national security claims petitioners advance to support the Executive Order are a thin pretext. As the Ninth Circuit correctly observed when reviewing the prior Order, there is "no evidence that any alien from any of the countries named in the Order has perpetrated a terrorist attack in the United States." *Washington v. Trump*, 847 F.3d 1151, 1168 (9th Cir. 2017). Indeed, no foreign nationals from

the targeted countries have committed any act of terror on U.S. soil since at least 1975.[20]

The Executive Order generally states that its restrictions are necessary to prevent "foreign nationals who may commit, aid, or support acts of terrorism" from entering the country. J.A. 1416 (§ 1(a)). But the circumstances surrounding the issuance of the Orders demonstrate that this veneer is just a cover for President Trump's attempt to ban Muslims. The original Order was issued just seven days after the inauguration, without vetting by any significant interagency policy or legal review process. Moreover, despite the claimed urgency of the ban's national security concerns and the injunction against the first Order, President Trump chose to delay signing the revised Order so that news of its issuance would not interfere with favorable press coverage of his address to a joint session of Congress on February 28, 2017. J.A. 1028.

It was only after the Ninth Circuit's ruling on the original Order that the President asked the Department of Homeland Security ("DHS") to belatedly compile an intelligence report justifying the Order's ban on aliens from the targeted countries. That report actually rejects the premise of the Orders, concluding that "country of citizenship is unlikely to be a reliable indicator of potential terrorist activity." J.A. 1051. A subsequent DHS report reinforced this

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[20] Alex Nowrasteh, *Where Do Terrorists Come From? Not the Nations Named in Trump Ban*, Newsweek (Jan. 31, 2017).

assessment, concluding that "most foreign-born, US-based violent extremists likely radicalized several years after their entry into the United States, limiting the ability of screening and vetting officials to prevent their entry because of national security concerns." J.A. 1059-60. The very reports President Trump commissioned to justify the Executive Order refute its purported national security rationale entirely.

Other assertions in the Executive Order do not support its targeting of the six Muslim countries. The Order states that Attorney General Sessions reported to President Trump that "more than 300 persons who entered the United States as refugees are currently the subjects of counterterrorism investigations by the Federal Bureau of Investigation." J.A. 1424 (§ 1(h)). But the Order does not claim that any of these refugees came from the six countries targeted by this ban. Similarly, the Order asserts that "[s]ince 2001, hundreds of persons born abroad have been convicted of terrorism-related crimes in the United States." *Ibid.* But the Order does not restrict immigration based on the national origin of past convicted terrorists. Instead, it singles out immigration from six Muslim countries. Petitioners' national security claims do not withstand the barest scrutiny, underscoring that they are pretextual.

Also telling is the administration's abandonment of its original explanation of the professed need for the "temporary" suspension of aliens from the six targeted countries. The original Order claimed that

this temporary suspension was necessary to afford the Secretary the opportunity to review the vetting procedures mandated by the Order, and it required the Secretary to report the results of that review to the President in 30 days, or by February 26, 2017. J.A. 1405-06 (§ 3(a)-(b)). The revised Order was issued after that deadline elapsed, and simply reiterated the directive that the Secretary of Homeland Security conduct that review and report to the President by April 5, 2017, J.A. 1425-26 (§ 2(b)), again claiming that the suspension was needed "[t]o temporarily reduce investigative burdens on relevant agencies during the review period." J.A. 1426 (§ 2(c)). The Ninth Circuit's June 12, 2017 decision cleared the way for such "internal review procedures" to begin. Pet. Br. 17. But President Trump has since stated that the suspensions are independent of this review. In a Presidential Memorandum issued on June 17, 2017, President Trump declared that the suspension periods required by the Order will begin to run at "the date and time at which the referenced injunctions are lifted or stayed with respect to that provision." Memorandum from President Donald J. Trump to Sec'y of State, *Effective Date in Executive Order 13780* (June 14, 2017), http://www.whitehouse.gov/briefing-room/presidential-actions. This Court granted a stay on June 26, 2017, but to this day the federal government has not indicated that the review has been completed, or even undertaken, much less what it disclosed, or why the suspension will still be necessary after the time for the review has passed.

Instead, the Presidential Memorandum essentially severed the connection between the Executive Order's suspension and review provisions and makes clear that the President will, if permitted, implement the travel suspensions without regard to the supposed purpose in the Order. This likewise reflects that petitioners believe Congress has already granted the President the authority to indefinitely suspend immigration from any country and that his decision to do so is unreviewable. Pet. Br. 39-43. On those terms, the President may continue the suspension and apply it to additional countries for any reason, or no reason at all. That untethered Executive action is not necessary for national security, under any standard.

D. *Mandel* and *Din* Do Not Provide The Applicable Legal Framework.

Against the weight of authority under the Establishment Clause, petitioners offer *Kleindienst v. Mandel*, 408 U.S. 753 (1972), and *Kerry v. Din*, 135 S. Ct. 2128 (2015), to argue that the Court should defer to the President's professed national security rationale and not consider the evidence of his discriminatory intent. Pet. Br. 62. Those decisions do not support petitioners' sweeping position. Neither case involved the Establishment Clause or the constitutional limits it imposes on the federal government's immigration powers. Instead, both cases involved discretionary decisions made by executive officers to admit or deny specific aliens under statutory immigration restrictions, the constitutionality of which was not challenged. Here,

by contrast, the issue is whether the Establishment Clause constrains the President's ability to categorically exclude nearly two hundred million aliens based on religious animus, on which this Court properly has the final say.[21] See *Fiallo v. Bell*, 430 U.S. 787, 793 n.5 (1977) ("Our cases reflect acceptance of a limited judicial responsibility under the Constitution even with respect to the power of Congress to regulate the admission and exclusion of aliens . . . ."); see also *INS v. Chadha*, 462 U.S. 919, 941-42 (1983) (federal government must choose "a constitutionally permissible means of implementing" immigration rules); *Chae Chan Ping v. United States*, 130 U.S. 581 (1889) (recognizing that federal government's power to exclude aliens is "restricted" by "the constitution itself").

Beyond that, the facts of *Mandel* and *Din* demonstrate that what was accepted there as a basis for the challenged executive action is not present here. In *Mandel*, the petitioners claimed that the Attorney General's decision not to grant a temporary nonimmigrant visa to a Belgian Marxist professor violated their First Amendment rights to hear him speak. At the time, the Immigration and Nationality Act prohibited the admission of aliens "who advocate the economic, international, and governmental doctrines of world communism" or

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[21] The population of the six targeted countries is more than 180 million. J.A. 254-55. Each is more than 90% Muslim, and indeed, Iran and Yemen are more than 99% Muslim. J.A. 119. And refuges worldwide are predominantly Muslim. *Supra* n.19.

"who write or publish . . . the economic, international, and governmental doctrines of world communism." 8 U.S.C. §§ 1182(a)(28)(D), (G)(v) (1964). The Attorney General had discretion to waive this prohibition and grant visas to aliens on an individual basis. *Id.* § 1182(d)(3). Mandel admittedly fell within the prohibited class, 408 U.S. at 756, which petitioners did not challenge. As the Court noted, petitioners "concede that Congress could enact a blanket prohibition of all aliens falling into th[at] class . . . and that First Amendment rights could not override that decision." *Id.* at 767. Thus, Mandel's only recourse was to apply for the Attorney General's exercise of discretion to admit him, which was denied. *Id.* at 757-59. That is what the Court upheld, based on what the Court perceived to be "a facially legitimate and bona fide reason" – namely, Mandel's violation of the conditions of a previous visa. *Id.* at 770.

Likewise, in *Din*, a U.S. citizen (L[illegible]) challenged the federal government's denial of a visa to her husband, a former employee of the Taliban government, 135 S. Ct. at 2131, but not the constitutionality of the law prohibiting her husband's entry. These provisions excluded aliens who engaged in "terrorist activities," such as those who provided support to a terrorist organization or served as its representative. 8 U.S.C. § 1182(a)(3)(B)(i), (iii)-(vi). The limited issue Din presented on appeal was whether the denial of her husband's visa denied her due process because it did not contain an adequate explanation of the reason for the visa denial. 135 S. Ct. at 2131. The plurality

determined that Din was not deprived of any interest protected by due process, *id.* at 2138, but the concurring Justices concluded that, assuming that she had a protected interest, she had received all the process to which she was entitled, *id.* at 2141-42 (Kennedy, J., joined by Alito, J., concurring in the judgment). Justice Kennedy analogized the case to *Mandel,* because each case involved discretionary authority to grant waivers to immigration laws passed by Congress, where the laws themselves were not challenged. *Id.* at 2139-41. In that circumstance, the concurring opinion limited its inquiry to whether the federal government had provided a rationale that was "facially legitimate and bona fide for its action," *id.* at 2140 (quoting *Mandel,* 408 U.S. at 770), and found that it had because it cited the "specific statutory factors," *ibid.*, that controlled the consular officer's determination that Din's husband was ineligible for a visa, *id.* at 2141.

This case is very different from *Mandel* and *Din*. For one, in this case there was never a facially legitimate decision in the first place, since President Trump's religious animus and promise to act upon it predated the Order. As a result, there is no Executive decision entitled to the deference shown in *Mandel* and *Din*. For another, this case does not present individualized determinations whether to admit one alien based on circumstances particular to him and under a statutory system that was not challenged. Instead, President Trump has barred all immigrants from six Muslim countries and all refugees, on the basis of nothing particular to them, and without any consideration of individualized

factors; and the legal basis for that decision is squarely challenged under the Establishment Clause. There is no basis for deference here.

In fact, in these circumstances, *Mandel* and *Din* are perfectly consistent with the Court's determination of intent in its Establishment Clause cases, since *Mandel* and *Din* call for the Court to consider the real reasons for the action when there is no facially legitimate basis, *or* where the basis is not bona fide. The term "bona fide" signifies "a thing done really, with a good faith, without fraud, or deceit, or collusion, or trust." *Ware v. Hylton*, 3 U.S. 199, 243 (1796). As Justice Kennedy explained in *Din*, *Mandel* allows courts reviewing immigration decisions to "look behind" the stated reasons for excluding an alien where there is "an affirmative showing of bad faith" on the part of the officer who denied the visa. 135 S. Ct. at 2141 (opinion concurring in the judgment). The Court's Establishment Clause cases likewise allow the courts to consider what is plain to any "objective observer." *McCreary County*, 545 U.S. at 862. As we recount above, here there is a mountain of evidence of bad faith, and of the Executive Order's improper religious purpose. Whatever else might constitute bad faith, the dogged determination to pursue the blatantly unconstitutional objective of excluding Muslims from the country because they are Muslim does. For this reason, petitioners' arguments fail even under *Mandel* and *Din*.

* * * *

In short, this case presents no national security imperative, or even a legitimate question of Executive power. Instead, President Trump claims unbridled and essentially unreviewable authority to exclude – on a blanket basis – hundreds of millions of Muslims because they are Muslim. The Establishment Clause does not permit the President to do so.

CONCLUSION

The judgments of the Courts of Appeals for the Fourth and Ninth Circuits should be affirmed.

Respectfully submitted,

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APPENDIX

APPENDIX

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CHICAGO

The population of Chicago is 2,717,534.[1]

Chicago has residents from more than 127 foreign countries.[2]

At least 572,066 of Chicago's residents are immigrants.[3]

3,731 of Chicago's residents were born in Iran, Libya, Somalia, Sudan, Syria, and Yemen, of whom 1,650 are non-citizens.[4]

Approximately 1.27 million people are employed in Chicago.[5] Of those, 26.5% are foreign-born immigrants,[6] including an estimated 976 non-citizen immigrants from the six targeted countries.[7]

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[1] U.S. Census Bureau, 2011-2015 American Community Survey 5-Year Estimates.

[2] *Ibid.*

[3] *Ibid.*

[4] U.S. Census Bureau, American Community Survey PUMS 1-Year 2015 Data.

[5] U.S. Census Bureau, 2011-2015 American Community Survey 5-Year Estimates.

[6] *Ibid.*

[7] *Ibid.*

Approximately 27% of Chicago's business owners are immigrants,[8] of whom an estimated 0.7% come from the six targeted countries.[9]

At least 12,500 private employees work in Chicago on international visas.[10] Chicago is home to 110,000 immigrant entrepreneurs.[11]

In 2016, approximately 2,091 refugees were resettled in Chicago, including 794 from the six targeted countries.[12]

Chicago has 34 four-year colleges and universities, with more than 13,789 international students in the 2015-16 academic year.[13]

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[8] http://www.americanimmigrationcouncil.org/research/new-americans-illinois.

[9] *Ibid.*

[10] http://ireports.wrapsnet.org/ (by destination and nationality).

[11] http://www.newamericaneconomy.org/city/chicago/.

[12] U.S. Department of State, Bureau of Population, Refugees and Migration, Office of Admissions – Refugee Processing Center, http://ireports.wrapsnet.org/.

[13] http://www.collegesimply.com/colleges/illinois/chicago/four-year-collegeshttp://www.iie.org/Research-and-Insights/Open-Doors/Fact-Sheets-and-Infographics/US-State-Fact-Sheets/2016.

City Colleges of Chicago (CCC) has seven colleges, with approximately 558 international students in the 2015-16 academic year. 175 of these were born in, arrived on visas from, or are nationals of the six countries.[14]

Chicago's tourism industry accounts for $911 million a year in local tax revenue and $2.3 billion in hotel revenue.[15]

232 flights arrive at Chicago airports from international destinations every day, bringing 31,856 passengers.[16] Each international flight yields approximately $212,000 in local economic impact.[17]

In 2016, Chicago welcomed 54.1 million visitors,[18] 1.62 million of whom visited from overseas.[19]

Approximately 1,000 international visitors were from the six targeted countries.[20]

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[14] Jeff Donoghue, CCC, (includes credit students only).

[15] Alfred Orendorff, ChooseChicago.

[16] http://www.flychicago.com/business/CDA/factsfigures/Pages/airtraffic.aspx.

[17] Jonathan Leach, Chicago Department of Aviation.

[18] http://www.cityofchicago.org/city/en/depts/mayor/press_room/press_releases/2016/april/Mayor-Choose-Chicago-Announce-Record-Tourism-2015.html.

[19] U.S. Department of Commerce, National Travel and Tourism Office, http://tinet.ita.doc.gov/outreachpages/download_data_table/2015_States_and_Cities.pdf.

[20] Alfred Orendorff, ChooseChicago.

In 2015, tourism brought $14.66 billion in direct spending to Chicago. Annually, international visitors to Chicago spend an estimated $1.88 billion, generating $112 million in state and local taxes.[21]

The average overseas visitor spends about $2,313 per trip visiting Chicago.[22]

Tourists from the six countries account for an estimated $1.25 million of local economic impact per year.[23]

Chicago is home to 44 major hospitals,[24] which serve thousands of international patients a year. The Middle East is the top source of patients traveling to the U.S. for medical care.[25]

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[21] *Ibid.*

[22] *Ibid.*

[23] *Ibid.*

[24] http://www.ihatoday.org/uploadDocs/1/hospcounty.pdf; http://www.cityofchicago.org/city/en/depts/cdph/supp_info/clinical_health/Find_a_clinic.html.

[25] http://www.chicagobusiness.com/article/20170201/news03/170209996/how-trumps-travel-ban-could-hit-medical-tourism-hard.

Chicago established the Chicago Legal Protection Fund to increase legal services for immigrant communities across the city.[26] The Fund was allocated $1.3 million for FY2017 to support organizations – including Heartland Alliance's National Immigrant Justice Center (NIJC) and The Resurrection Project (TRP) – and serve more than 20,000 immigrants through community-based outreach, education, legal consultations, and legal representation.[27]

NIJC also received $150,000 from Chicago for fiscal year 2017 for its Immigrant Children's Protection Project, which provides legal services to unaccompanied children held in Chicago-area shelters.[28]

In calendar year 2016, NIJC and TRP represented clients from at least 132 countries, including all six targeted countries.[29]

In Chicago, there were twice as many arrests for hate crimes in the three months after the presidential election than during the same period in the prior year.[30]

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[26] Seemi Choudry, Director of Office of New Americans, Chicago.

[27] *Ibid.*

[28] *Ibid.*

[29] *Ibid.*

[30] Brandon Nemec, Mayor's Office liaison with Chicago Police Department.

In the first five weeks of 2017, the number of hate crimes recorded in Chicago was more than triple the number for the same period in 2016. Additionally, hate crimes categorized as anti-Muslim or anti-Arab hit five-year highs in Chicago in 2016.[31]

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[31] http://www.chicagotribune.com/suburbs/daily-southtown/news/ct-sta-hate-crimes-increase-st-0305-20170303-story.html.

NEW YORK CITY

The population of New York City is 8,550,405 as of 2015.[32]

New York has residents from more than 150 foreign countries.[33]

New York City is home to three million foreign-born New Yorkers, about 37% of the City's population. Approximately 49% of New Yorkers speak a language other than English at home.[34]

New York City is home to an estimated 26,566 individuals born in Sudan, Yemen, Syria, Iran, Somalia, and Libya.[35] An additional 36,123 individuals have ancestors from these countries.[36]

Approximately 4.3 million people are employed in New York City; of those, 46% are foreign-born immigrants.[37]

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[32] http://www.census.gov/quickfacts/table/PST045215/3651000.

[33] Our Immigrant Population Helps Power NYC Economy, Comptroller Scott Stringer, 2017.

[34] U.S. Census Bureau, 2011-2015 American Community Survey 5-Year Estimates.

[35] *Ibid.*

[36] U.S. Census Bureau, 2015 American Community Survey 1-Year Estimate.

[37] U.S. Census Bureau, 2011-2015 American Community Survey 5-Year Estimates.

New York City itself employs 287,000 people,[38] 34% of them foreign-born.[39]

As the largest gateway city in the country, New York City would be disproportionately affected by the travel ban. New York City is the initial U.S. destination for nearly 30% of all inbound international visitors with the next largest city being LA with about 12%.[40]

51% of New York City's business owners are immigrants.[41]

About 1,300 refugees have been resettled in New York City in the last five years.[42]

The tourism sector of New York City's local economy includes direct visitor spending in 2015 of $42.2 billion.[43]

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[38] http://www.nytimes.com/2016/10/12/nyregion/bill-de-blasio-government-jobs.html?_r=0.

[39] U.S. Census Bureau, 2011-2015 American Community Survey 5-Year Estimates.

[40] http://www.nycandcompany.org/research/nyc-statistics-page.

[41] Our Immigrant Population Helps Power NYC Economy, Comptroller Scott Stringer, 2017.

[42] Data compiled by the Bureau of Population, Refugees, and Migrants Office of Admissions—Refugee Processing Center.

[43] http://www.nycandcompany.org/research/nyc-statistics-page.

In 2015, New York City welcomed 58.5 million visitors, including 12.3 million foreign visitors.[44] New York City now predicts a 300,000-person drop in foreign visitors this year, which will result in a loss of $600 million in direct spending.[45]

New York City has 87 four-year colleges and universities, with approximately 50,000 international students.[46]

In the three months following the Presidential election, New York City has characterized 43 crimes as possible hate crime incidents,[47] an increase of 115% for the same three-month period.[48] In the six months following President Trump's first travel ban Executive Order, NYPD Hate Crime Task Force data show 215 incidents of bias crime have occurred in the city. This is an increase of 131% when compared to the same timeframe last year.

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[44] *Ibid.*

[45] Patrick McGeehan, *New* http://www.usatoday.com/story/news/world/2017/03/29/trumps-travel-ban-could-cost-18b-us-tourism-travel-analysts-say/99708758.

[46] 46,870 foreign students were enrolled during the 2012–2013 school year. http://www.nycedc.com/blog-entry/international-students-nyc.

[47] http://observer.com/2016/12/nypd-reports-huge-spike-in-hate-crimes-since-donald-trumps-election.

[48] http://www.ny1.com/nyc/all-boroughs/news/2016/12/5/since-election-day--nypd-reports-a-spike-in-hate-crimes-around-the-city-compared-to-last-year.html.

LOS ANGELES

The population of the Los Angeles metropolitan area (Los Angeles County) is 10.2 million people, with more than 3.9 million living in the city.[49]

Los Angeles has residents from more than 135 foreign countries, and 185 languages are spoken here.[50]

At least 1.5 million city residents are themselves immigrants, 37.8% of our total population. Approximately 43% of residents of Los Angeles County were born in another country.[51]

As of 2015, the Los Angeles metropolitan area had more than 152,000 immigrants from the six affected countries, including approximately 136,000 from Iran, 14,900 from Syria, 600 from Sudan, 500 from Somalia, and 100 from Yemen.[52]

Los Angeles employs approximately 45,000 people, 22% of whom are foreign-born immigrants. 44% of business owners in Los Angeles are immigrants.[53]

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[49] U.S. Census Bureau, 2011-2015 American Community Survey 5-Year Estimates.

[50] *Ibid.*

[51] *Ibid.*

[52] http://www.brookings.edu/blog/the-avenue/2017/01/30/these-communities-have-a-lot-at-stake-in-trumps-executive-order-on-immigration.

[53] 2010 ACS single-year estimate.

Los Angeles stands to lose an estimated $736 million in direct spending due to the Executive order.[54]

Between October 2015 and September 2016, approximately 2,800 refugees were resettled in Los Angeles County, including approximately 2,000 from the six targeted countries, and 1,900 from Iran alone.[55]

185 flights arrive at LAX from international destinations every day, bringing 31,000 passengers, including more than 150 from the targeted countries.[56]

The tourism sector of the local economy accounts for $21 billion a year in direct spending by visitors to Los Angeles County and $260 million in hotel taxes. Tourism supports approximately 500,000 jobs in the leisure and hospitality sectors.[57]

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[54] http://www.usatoday.com/story/news/world/2017/03/29/trumps-travel-ban-could-cost-18b-us-tourism-travel-analysts-say/99708758/.

[55] U.S. Department of State, Bureau of Population, Refugees and Migration, Office of Admissions – Refugee Processing Center.

[56] LAX officials.

[57] Discover LA.

In 2016, Los Angeles welcomed 47 million visitors, including 7.1 million foreign nationals who spent $6.3 billion. At least 160,000 visitors hail from the Middle East; they spent at least $185 million while in Los Angeles.[58]

Los Angeles has at least ten four-year colleges and universities, with approximately 25,000 international students.[59]

The Mayor of Los Angeles has reported that hate crime incidents doubled to 30 in the month following the presidential election.[60]

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[58] *Ibid.*

[59] University enrollment data.

[60] http://abc7.com/politics/garcetti-discusses-las-rise-in-hate-crimes-after-election/1651429/.

PHILADELPHIA

The population of the City of Philadelphia is approximately 1,526,006, [61] and approximately 6,051,170 for the Philadelphia Metropolitan Statistical Area.[62]

Philadelphia has residents from more than 130 foreign countries.[63]

At least 197,563 of Philadelphia's residents are immigrants.[64]

Approximately 1,456 Philadelphia residents were born in Iran, Libya, Somalia, Sudan, Syria, and Yemen.[65]

Approximately 640,661 people are employed in Philadelphia, and 108,010 of them are foreign-born (not including individuals who work in Philadelphia but reside outside the city).[66]

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[61] U.S. Census Bureau, 2011-2015 American Community Survey 5-Year Estimates.

[62] U.S. Census Bureau, Annual Estimates of the Resident Population: April 1, 2010 to July 1, 2014 – United States – Metropolitan and Micropolitan.

[63] U.S. Census Bureau, Place of Birth for the Foreign-Born Population in the United States, 2011-2015 American Community Survey 5-year Estimates.

[64] *Ibid.*

[65] *Ibid.*

[66] U.S. Census Bureau, Selected Characteristics of the Native and Foreign-Born Populations, 2011 American Community Survey 5-Year Estimates.

In 2013, immigrants made up 14% of business owners in Philadelphia; and immigrants are 28% of the area's "Main Street" business owners, including 23% of retail store owners and 34% of restaurant owners.[67]

From October 2015 to September 2016, approximately 682 refugees were resettled in Philadelphia, including 176 from the six targeted countries.[68] In the first seven months of 2017, the Nationalities Service Center, the largest refugee service organization in the Philadelphia region, resettled 155 refugees, including 39 from Syria alone.[69] This was a significant drop from the

previous seven months, in which the organization was able to resettle 373 refugees, including 131 from Syria.[70]

The Philadelphia Metropolitan Area is home to 31 four-year colleges and universities, with 21,273 international students.[71]

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[67] Americas Society/Council of the Americas and Fiscal Policy Institute, *Bringing Vitality to Main Street: How Immigrant Small Businesses Help Local Economies Grow*, at 16 (available at http://www.as-coa.org/sites/default/files/ImmigrantBusinessReport.pdf).

[68] U.S. Department of State, Bureau of Population, Refugees and Migration, Office of Admissions – Refugee Processing Center, http://ireports.wrapsnet.org/.

[69] Juliane Ramic, Senior Director of Refugee and Community Integration, Nationalities Service Center.

[70] *Ibid.*

Philadelphia is home to 31 hospitals that, as of June 30, 2015, employed 53,883 full-time employees, and 14,339 part-time employees.[72]

In 2016, 42 million visitors spent $6.8 billion in the Philadelphia area. This direct visitor spending generated $11 billion in economic impact, supported 96,600 jobs, and generated $634 million in tax revenue for state and local governments.[73]

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[71] CampusPhilly; Christine Farrugia, Rajika Bhandari, Ph.D., *2015 Open Doors, Report on International Educational Exchange*.

[72] Pa. Dept. of Health - Division of Health Informatics, Report No. 6, Full-Time and Part-Time Personnel On Payroll (reporting period Jan. 1, 2016, through Dec. 31, 2016) (available at http://www.statistics.health.pa.gov/HealthStatistics/HealthFacilities/HospitalReports/Pages/HospitalReports.aspx#.WbAR2NKPIkI.

[73] http://files.visitphilly.com/Visit-Philadelphia-annual-report-2017.pdf.

In the three months following the Presidential election, eleven hate crimes were reported to Philadelphia police, a 157% increase over the seven reported in the three-month period around the same time the prior year.[74] In the same time period, the Philadelphia Commission on Human Relations received reports of 43 separate hate or bias incidents, as compared to just three reports during the same time last year, a 1433% increase.[75] In the first six months of 2017, Philadelphia police received reports of 27 hate crime incidents, more than in all of 2016 and on pace to surpass the total from the prior three years combined.[76]

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[74] Philadelphia Police Department, Research and Analysis Unit Statistical Section; see also Uniform Crime Reporting System, Monthly Summary Hate/Bias Motivation Report for Philadelphia City, http://ucr.psp.state.pa.us/UCR/Reporting/Monthly/Summary/MonthlySumHateUI.asp?rbSet=4.

[75] Philadelphia Commission on Human Relations.

[76] http://ucr.psp.state.pa.us/UCR/Reporting/Monthly/Summary/MonthlySumHateUI.asp.